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DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, D.C. 20350

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IN REPLY REFER TO
Ser 00/500296
2 October 1976

MEMORANDUM FOR ALL FLAG OFFICERS AND OFFICERS IN COMMAND

Subj: BELKNAP/KENNEDY Collision

Encl: (1) Summary of Circumstances of Collision and Related
Administrative and Judicial Processes

1. On 22 November 1975, USS BELKNAP (CG 26) was severely damaged in a collision at sea with USS JOHN F. KENNEDY (CV 67) which cost the lives of eight Navy personnel and injured forty-eight others. A formal investigation held the Commanding Officer and the Officer of the Deck of BELKNAP accountable for that tragic incident. The Commanding Officer was subsequently referred to trial by general court-martial which resulted in disposition tantamount to acquittal on all charges and specifications. The Officer of the Deck was also tried by general court-martial and, although convicted of three separate charges, was sentenced to no punishment. There has been some outspoken criticism of the outcome of the BELKNAP courts-martial. Much of that criticism reflects concern that the principle of command responsibility may have been imperiled as a result of the BELKNAP cases. I want to here address that concern, and to assure each of you that resolution of the BELKNAP cases will not in any way jeopardize the concepts of command responsibility, authority and accountability.

2. There has always been a fundamental principle of maritime law and life which has been consistently observed over the centuries by seafarers of all nations: The responsibility of the master, captain or commanding officer on board his ship is absolute. That principle is as valid in this technical era of nuclear propulsion and advanced weapons systems as it was when our Navy was founded two hundred years ago. This responsibility, and its corollaries of authority and accountability, have been the foundation of safe navigation at sea and the cornerstone of naval efficiency and effectiveness throughout our history. The essence of this concept is reflected in Article 0702.1 of Navy Regulations, 1973, which provides in pertinent part that: "The responsibility of the commanding officer for his command is absolute, except when, and to the extent, relieved therefrom by competent authority, or as provided otherwise in these regulations."



3. To understand fully this essential principle, it must first be recognized that it is not a test for measuring the criminal responsibility of a commanding officer. Under our system of criminal justice, in both civilian and military forums, in order that a man's life, liberty and property may be placed at hazard, it is not enough to show simply that he was the commanding officer of a Navy ship involved in a collision and that he failed to execute to perfection his awesome and wide ranging command responsibilities. Rather, it must be established by legally admissible evidence and beyond a reasonable doubt that he personally violated carefully delineated and specifically charged provisions of the criminal code enacted by the Congress to govern the armed forces--the Uniform Code of Military Justice--before a commanding officer can be found criminally responsible for his conduct. Military courts-martial are federal courts and the rules of evidence and procedure applicable therein are essentially the same as those which pertain in any other federal criminal court and the rights of an accused, whether seaman or commanding officer, are closely analogous to those enjoyed by any federal criminal court defendant. The determination of criminal responsibility is therefore properly the province of our system of military justice. The acquittal of a commanding officer by a duly constituted court-martial absolves him of criminal responsibility for the offenses charged. It does not, however, absolve him of his responsibility as a commanding officer as delineated in U. S. Navy Regulations.

4. When the results of the BELKNAP cases were reported in the press, many assumed that the Commanding Officer and the Officer of the Deck of BELKNAP had been absolved of all responsibility for the collision by the military judges that presided over their respective courts-martial and that the principle of command responsibility had thereby been imperiled. Soon thereafter I began to receive letters from concerned members of both the retired and active naval community. Much of this reaction was critical of the results of the two courts-martial and revealed a serious misunderstanding of the role of military justice in the naval service.

5. The responsibility of a commanding officer for his command is established by long tradition and is clearly stated in U. S. Navy Regulations. In the case of the BELKNAP-KENNEDY incident, the JAG MANUAL investigating officer determined that both the Commanding Officer and the Officer of the Deck of BELKNAP were personally responsible for the collision. CINCUSNAVEUR, the convening authority of the investigation, approved that finding on review, as did I, when I took action on the investigative report as CNO. BELKNAP's Commanding Officer and Officer of the Deck were thereby held to be accountable for that tragic accident.

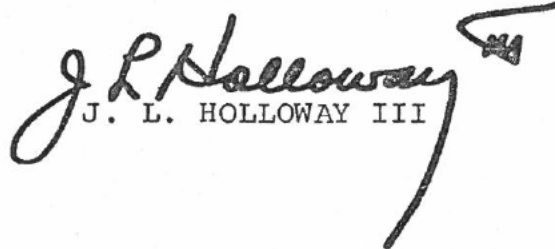
6. Responsibility having been officially and unequivocally established, it then remained to determine what sanctions, if any, were to be taken against the two officers concerned. It goes without saying that documented professional shortcomings are appropriately noted in reports of fitness and that errors in judgment thus detailed are taken into account before the individual concerned is considered for assignment or promotion or entrusted with command. However, in this instance, it was determined that further official action was warranted. Accordingly, CINCUSNAVEUR issued a letter of reprimand to the Commanding Officer and recommended that the Officer of the Deck be tried by general court-martial. CINCLANTFLT subsequently referred criminal charges against both the Commanding Officer and the Officer of the Deck to trial by general court-martial. As previously noted, the trial of the Commanding Officer resulted in disposition equivalent to acquittal and the trial of the Officer of the Deck resulted in his conviction. (Enclosure (1) is a summary of these administrative and judicial processes as well as a brief description of the circumstances of the collision itself.)

7. The imposition of the punitive letter of reprimand as nonjudicial punishment constituted a formal sanction against the Commanding Officer. The subsequent judicial resolution of his general court-martial in a manner tantamount to acquittal could not and did not vitiate the established fact of his accountability. It simply determined that the evidence of record was not legally sufficient to find him guilty of the criminal charges for which he had not previously been punished. In the case of the Officer of the Deck of BELKNAP, the court determined that the evidence of record was legally sufficient to find him guilty beyond reasonable doubt of all but one of the criminal offenses charged.

8. In summary, the Commanders' responsibility for his command is absolute and he must and will be held accountable for its safety, well-being and efficiency. That is the very foundation of our maritime heritage, the cornerstone of naval efficiency and effectiveness and the key to victory in combat. This is the essence of the special trust and confidence placed in an officer's patriotism, valor, fidelity and abilities. Every day in command tests the strength of character, judgment and professional abilities of those in command. In some cases, Commanders will be called upon to answer for their conduct in a court of law. In all cases, they will be professionally judged by seagoing officers--a far more stringent accountability in the eyes of those who follow the sea. We in the Navy would have it no other way, for the richest reward of command is the personal satisfaction of having measured up to

this responsibility and accountability. The loss of life, personal injuries, and material damages sustained in the collision of USS BELKNAP and USS JOHN F. KENNEDY serve as a tragic reminder of the necessity and immutability of the principle of command responsibility. The Commanding Officer and the Officer of the Deck of BELKNAP have been held accountable for that terrible loss of men and equipment. The concept of command responsibility has not been eroded.

9. The JAG MANUAL investigating officer's report of the collision included a number of lessons learned and specific recommendations designed to ensure that corrective action is taken. I have directed that those recommendations be implemented expeditiously and some of you are now personally involved in that task.


J. L. HOLLOWAY III

SUMMARY OF CIRCUMSTANCES RELATING TO THE BELKNAP-KENNEDY
COLLISION AND THE ADMINISTRATIVE AND JUDICIAL PROCESSES
EMANATING THEREFROM

The following is a brief description of the circumstances of the collision and of the administrative and judicial processes which should help you understand why the principle of command responsibility in the Navy has not been eroded by the BELKNAP cases.

COLLISION

On the evening of 22 November 1975, elements of Task Group 60.1, including USS JOHN F. KENNEDY (CV 67) and USS BELKNAP (CG 26), were operating in the Ionian Sea. At 2130 BELKNAP and KENNEDY were in a line of bearing formation on course 200°, speed 10 kts, with the screen operating independently. BELKNAP was maintaining a station on a relative bearing of 200°, 4000 yards from KENNEDY. At approximately 2145 KENNEDY began preparations for the last recovery of aircraft, scheduled for 2200, and was displaying flight deck lighting for aircraft operations. KENNEDY transmitted her intentions to turn into the wind with a "CORPEN J PORT 025-12" signal. The signal was acknowledged in BELKNAP and KENNEDY's execute signal followed very closely thereafter. The OOD in BELKNAP planned to slow, allow KENNEDY to complete her turn in front, and then bring BELKNAP around to port to the new course and maneuver into station. The CO of BELKNAP was not on the bridge at the time this maneuver was commenced and it is not clear whether he was apprised of the signal before the OOD executed his plan of action. The OOD and CO had discussed two previous CORPEN J STARBOARD maneuvers and the CO had concurred in the OOD's intention to "slow and follow the carrier around" in both prior instances. However, a course of action in the event of a possible CORPEN J PORT maneuver had not been discussed.

At about 2148 BELKNAP began to slow and ease to port as KENNEDY increased speed and came left toward the new course of 025T. Shortly thereafter the OOD in BELKNAP began to evidence first doubts as to the target angle of KENNEDY. CIC, realizing that the CPA would be close, recommended that BELKNAP come right. That recommendation, however, was not acknowledged by the bridge. The OOD, becoming less and less sure of KENNEDY's target angle, summoned the CO to the bridge at 2156. Immediately prior to the CO's arrival, the OOD ordered left full rudder causing BELKNAP's head to swing left and prompting KENNEDY to signal "Interrogative your intentions" followed by "come right full rudder now." CO, BELKNAP, now on the bridge,

Enclosure (1)

recognized that his ship was in extremis, and ordered right full rudder, all engines back emergency. KENNEDY had also applied right full rudder and all engines back full and BELKNAP passed down KENNEDY's port side close aboard on an approximately opposing course (see attached diagram). However, KENNEDY's flight deck extension collided with BELKNAP's bridge, sheared off a large portion of BELKNAP's superstructure and knocked over the macks. Fire fed by aviation fuel from KENNEDY engulfed BELKNAP. A total of eight crewmen were killed and forty-eight injured in the two ships as a direct result of the collision. Damages exceeded \$100,000,000.00.

JAG MANUAL INVESTIGATION

RADM Donald D. Engen, USN, was appointed by CINCUSNAVEUR to conduct a formal one officer investigation of the collision and to "fix individual responsibilities for the incident." The commanding officers and officers of the deck of both BELKNAP and KENNEDY were designated as parties to the investigation. The investigation was begun on 23 November 1975 and was completed on 31 December. The investigating officer determined that BELKNAP's Commanding Officer and Officer of the Deck were responsible for the collision and the ensuing personnel casualties and material damages.

The investigating officer recommended, among other things, that the Commanding Officer of BELKNAP be awarded a punitive letter of reprimand for his failure to ensure the safety, well-being, and efficiency of his command, as evidenced by his "failure to be present on the bridge...during the initial maneuvers in a new station in close proximity...to KENNEDY and his failure to assure the proper training of ...bridge team members." The convening authority, CINCUSNAVEUR, also determined that the Commanding Officer was responsible for the collision and approved the investigating officer's recommendation that a punitive letter of reprimand be issued. A punitive letter of reprimand was awarded to the Commanding Officer by CINCUSNAVEUR on 2 January 1976 for failing to secure a clear description of the Officer of the Deck's plan for the maneuver prior to its execution, for failure to assure himself that the Officer of the Deck understood the maneuvering requirements which should have been anticipated, and for failing to ensure that only adequately trained and competent personnel were permitted to assume positions of responsibility on BELKNAP's bridge team.

The investigating officer recommended that BELKNAP's Officer of the Deck be referred for trial by general court-martial for his failure to keep himself informed of the tactical situation, his failure to take appropriate action to avoid collision in accordance with the International Rules of the Road

and accepted Navy doctrine, and his failure to make required reports to the Commanding Officer. CINCUSNAVEUR approved that recommendation and forwarded a charge sheet to COMNAVSURFLANT alleging violations of Article 92, UCMJ (disobedience of OPNAV Instructions and BELKNAP Standing Orders), Article 108, UCMJ (suffering the two ships to be damaged through neglect), Article 110, UCMJ (suffering the two ships to be hazarded through neglect) and Article 119, UCMJ (manslaughter).

COURT-MARTIAL OF BELKNAP'S COMMANDING OFFICER

Notwithstanding the prior imposition of a punitive letter of reprimand on the Commanding Officer of BELKNAP as non-judicial punishment by CINCUSNAVEUR, COMNAVSURFLANT caused an Article 32, UCMJ, pretrial investigation to be conducted to inquire into the Commanding Officer's role in the collision. The pre-trial investigating officer recommended that the Commanding Officer be tried by general court-martial on two specifications of violation of Navy Regulations and three specifications of dereliction of duty, all in violation of Article 92, UCMJ; one specification of suffering damage to BELKNAP and KENNEDY through neglect, in violation of Article 108, UCMJ, and one specification of suffering the two ships to be hazarded through neglect, in violation of Article 110, UCMJ.

COMNAVSURFLANT concurred in that recommendation and forwarded the sworn charges to CINCLANTFLT for consideration. On 12 March 1976, CINCLANTFLT referred the charges to trial by general court-martial.

At his request, the accused, Commanding Officer, USS BELKNAP, was tried by military judge alone. During the course of the trial that ensued, the two specifications alleging violation of Article 0702, U. S. Navy Regulations were dismissed by the military judge on the ground that Article 0702 constitutes a guideline for performance and not an order to be enforced with criminal sanctions. Two specifications alleging that the Commanding Officer was derelict in his duty by failing to ascertain the specific maneuvers contemplated by the Officer of the Deck and by failing to ensure that only adequately trained personnel were permitted to assume responsible positions on the bridge watch were dismissed by the military judge on the ground that the Commanding Officer had previously been punished for those offenses by virtue of the punitive letter of reprimand imposed upon him by CINCUSNAVEUR. One specification alleging that the Commanding Officer was derelict in his duty in that he failed personally to supervise the Officer of the Deck during BELKNAP's maneuvering in close proximity to KENNEDY was dismissed by the military judge on the ground that it involved the same misconduct alleged under the charge of suffering the hazarding of the two

vessels through neglect, and was therefore an undue multiplication of the charges.

As a result, the Commanding Officer was arraigned on one specification alleging that through neglect he suffered the two ships to be damaged by failing to personally supervise and instruct his OOD and JOOD and by failing to post a fully qualified bridge watch section, in violation of Article 108, UCMJ, and one specification of negligently suffering the two ships to be hazarded, also by his failure to provide personal supervision and training to his OOD and JOOD and by his failure to post a fully qualified bridge watch section. The Commanding Officer entered pleas of Not Guilty to these remaining charges and specifications. On 12 May 1976, following two days of testimony from eighteen Government witnesses, the military judge granted a defense motion for findings of Not Guilty as to both charges and their specifications on the ground that testimony of the witnesses failed to establish that the bridge watch was improperly qualified or that the Commanding Officer was negligent in not personally supervising and instructing his OOD and JOOD, and, therefore, that the evidence of record failed to establish a prima facie case that the Commanding Officer was criminally negligent as alleged.

COURT-MARTIAL OF BELKNAP'S OFFICER OF THE DECK

Pursuant to the recommendations of the JAG MANUAL investigating officer, of CINCUSNAVEUR and of COMNAVSURFLANT, CINCLANTFLT referred the charges against the Officer of the Deck of BELKNAP to trial by general court-martial on one specification of failure to obey OPNAV Instruction 3120.32 by failing to keep fully informed of the tactical situation and to take appropriate action to avoid the collision, failing to issue necessary orders to the BELKNAP's helm and main engine control to avoid danger, and failing to make required reports to the Commanding Officer, and one specification of failure to obey BELKNAP Standing Orders to notify the Commanding Officer of a major course change order by the Officer in Tactical Command, both in violation of Article 92, UCMJ; one specification of suffering damage to the two ships through neglect, in violation of Article 108, UCMJ; and one specification of suffering the two ships to be hazarded through neglect, in violation of Article 110, UCMJ. At his request, the Officer of the Deck was also tried by military judge alone and entered pleas of Not Guilty to the offenses charged. The military judge found the accused Not Guilty of the specification alleging failure to obey BELKNAP's Standing Orders but found him Guilty of the remaining charges and specifications. Subsequent to presentation of matters in mitigation and extenuation, the military judge elected not to impose punishment on the accused on the ground that, under the

circumstances, the conviction by general court-martial itself constituted an adequate and appropriate punishment.

TRIAL BY MILITARY JUDGE ALONE

An additional misunderstanding of military justice which came to light in the aftermath of the BELKNAP courts-martial involves the concept of trial by military judge alone. As you are undoubtedly aware, every accused in a non-capital case tried by general court-martial or by a special court-martial presided over by a military judge has the unqualified right to request trial by judge alone. The military judge's ruling on such a request is final. This provision for trial by military judge alone is modeled after Rule 23(a) of the Federal Rules of Criminal Procedure. Unlike the Federal Rule, however, Article 16 of the UCMJ makes the accused's right to waive trial by court members independent of the consent of the Government. The Senate Report on the proposed legislation which ultimately became the Military Justice Act of 1968, makes it clear that this difference was generated by Congressional concern over the spectre of unlawful command influence. Consequently, the election of the accused in the BELKNAP cases to exercise their right to trial by military judge alone and the granting of that request by the military judges in those two cases, was entirely proper under the law.

In any event, it would be well to remember that the concept of an independent judiciary is as essential to the administration of military justice as is the concept of command responsibility to fleet operations. Moreover, these two concepts are as compatible as they are essential. Strict adherence to one does no violence to the other.

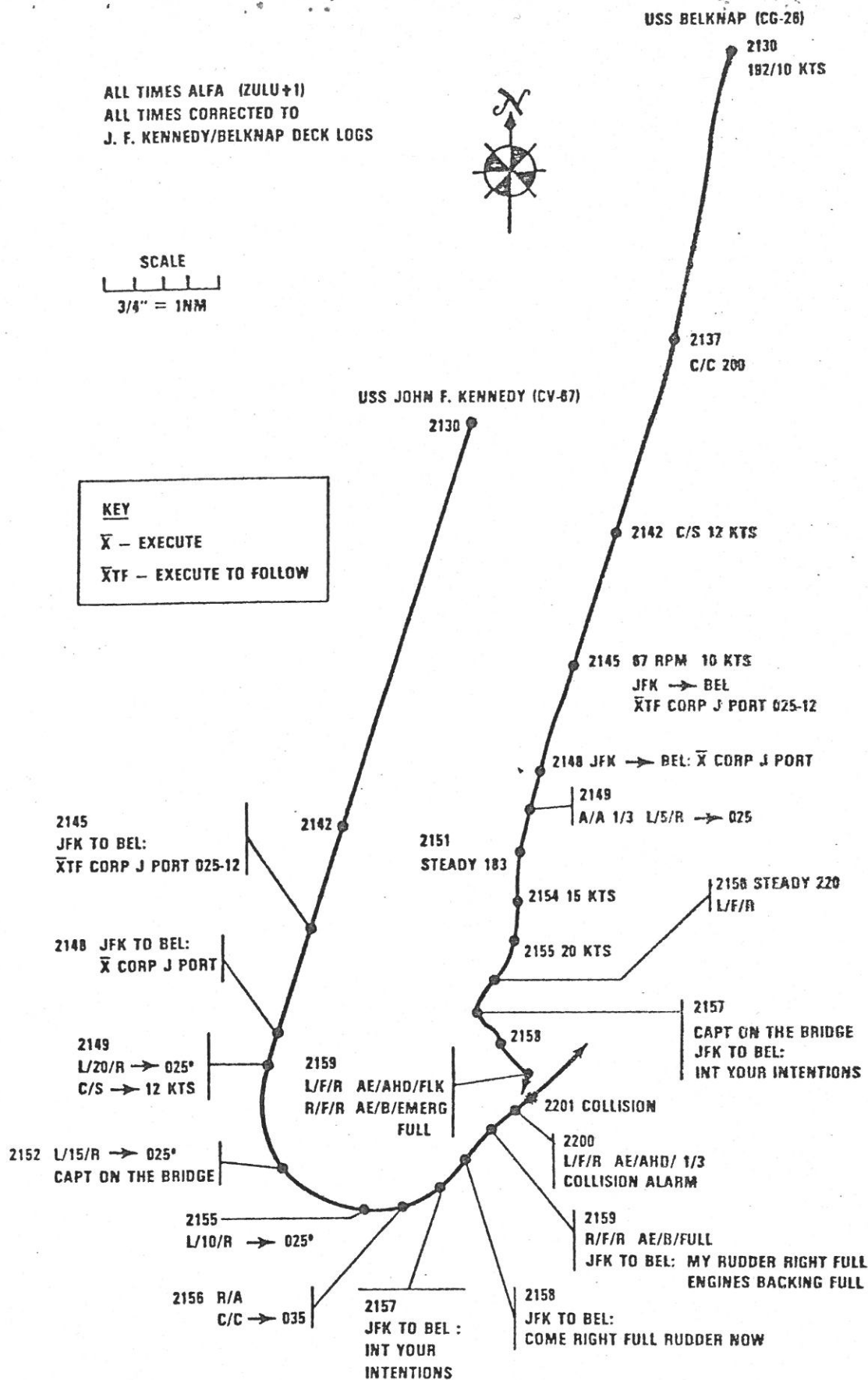


ALL TIMES ALFA (ZULU+1)
ALL TIMES CORRECTED TO
J. F. KENNEDY/BELKNAP DECK LOGS



SCALE
3/4" = 1NM

KEY
X - EXECUTE
XTF - EXECUTE TO FOLLOW



ATTACHMENT